

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-33591

ALAN JAMES SOLBERG  
KATHY KAY SOLBERG,

Debtors.

Chapter 7 Case

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**NOTICE OF HEARING  
AND  
MOTION OBJECTING TO CLAIMED EXEMPTIONS**

TO: The debtors and other entities specified in Local Rule 9013-3.

Paul W. Bucher, the trustee in bankruptcy in this case (the “trustee”), moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this Motion at 11:00 a.m. on October 7, 2004, in Courtroom No. 228A, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.
2. Because this Motion is being delivered at least 21 days or mailed at least 24 days before the hearing date, any response to this Motion must be filed and delivered not later than September 30, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than September 27, 2004, which is ten days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. This Court has jurisdiction over this Motion pursuant to Sections 157 and 1334 of Title 28 of the United States Code, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on June 18, 2004. This case is now pending in this court.
4. This Motion arises under Section 522 of the United States Bankruptcy Code (11 U.S.C. §522), Rule 4003 of the Federal Rules of Bankruptcy Procedure, and Local Rule 4003-1(a). This Motion is filed under Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The trustee requests relief with respect to objections to certain property claimed as exempt by the debtors.
5. The debtors have elected to claim property as exempt under Section 522(b)(1) of the United States Bankruptcy Code. See the attached Schedule C filed in this case.

6. The debtors have claimed the following assets as exempt under the following statute: accrued wages, Alliance Bank deposits, cash on hand, estimated 2004 tax refunds, estimated accrued profit sharing disbursement, golf clubs, and Orange Lake Resort Timeshare under 11 U.S.C. §522(d)(5). The debtors have exempted \$27,492.00 under the homestead exemption 11 U.S.C. §522(d)(1), which allows them to exempt \$5,679.00 each under §522(d)(5). The debtor, Alan James Solberg has claimed exemptions totaling \$8,865.58. The trustee objects to the claimed exemption on the grounds that the debtor, Alan James Solberg has exceeded the amount allowed under this statute.

7. If oral testimony is necessary at the hearing, the trustee will call the debtors: Alan James Solberg and Kathy Kay Solberg, 711 2<sup>nd</sup> St N., New Ulm, MN 56073, who will testify concerning the assets listed in #6 above, and any other matters, if necessary.

Wherefore, the trustee moves the Court for an order denying the above exemptions claimed by the debtors, and such other relief as the Court finds just and equitable.

Dated: September 3, 2004

/e/ Paul W. Bucher

Paul W. Bucher, Trustee  
206 South Broadway, Suite 505  
Post Office Box 549  
Rochester, Minnesota 55903-0549  
Telephone: (507) 288-9111

### **VERIFICATION**

I, Paul W. Bucher, the trustee in bankruptcy in this case and the moving party named in the foregoing Notice of Hearing and Motion Objecting to Claim of Exemption, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on September 3, 2004

/e/ Paul W. Bucher

Paul W. Bucher  
206 South Broadway, Suite 505  
Rochester, Minnesota 55904

In re Alan James Solberg Kathy Kay Solberg Case No. \_\_\_\_\_  
Debtor. (If known)

## SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemption to which debtor is entitled under:

(Check one box)

- ☒ 11 U.S.C. § 522(b)(1) Exemptions provided in 11 U.S.C. § 522(d). **Note: These exemptions are available only in certain states.**
- ☐ 11 U.S.C. § 522(b)(2) Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY, WITHOUT DEDUCTING EXEMPTIONS
1998 Oldsmobile Aurora	11 USC § 522(d)(2)	2,950.00	5,695.00
Accrued Wages	11 USC § 522(d)(5)	2,268.00	2,268.00
Alliance Bank 322 N. Minnesota St. New Ulm, MN 56073 (Deposits)	11 USC § 522(d)(5)	38.71	38.71
Cash on Hand	11 USC § 522(d)(5)	20.00	20.00
Estimated 2004 Tax Refunds	11 USC § 522(d)(5)	2,819.00	2,819.00
Estimated Accrued Profit Sharing Disbursement (Disbursed Quarterly - Not Guaranteed)	11 USC § 522(d)(5)	1,633.72	1,633.72
Golf Clubs	11 USC § 522(d)(5)	50.00	50.00
Homestead Located at 711 2nd St. N., New Ulm, MN 56073 Legally described as: Rear half of Lot 10, more particularly described as the Rear 55 ft. by 82 1/2 ft., Block 107, North of Center Street, City of New Ulm, Brown County, Minnesota.	11 USC § 522(d)(1)	27,492.00	109,900.00
Household Goods and Furnishings	11 USC § 522(d)(3)	2,000.00	2,000.00
Orange Lake Resort Time-share Kissimmee, FL 34747 Legally described as: 32-24-27-6253-03-190 Week 6 Unit 0319-0	11 USC § 522(d)(5)	7,000.00	7,000.00
Wearing Apparel	11 USC § 522(d)(3)	1,000.00	1,000.00

In re Alan James Solberg Debtor. Kathy Kay Solberg Case No. \_\_\_\_\_  
(If known)

## SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY, WITHOUT DEDUCTING EXEMPTIONS
Whole Life Insurance Woodmen Accident & Life Co. PO Box 82288 Lincoln, NE 68501	11 USC § 522(d)(7)	3,974.27	3,974.27

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA

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ALAN JAMES SOLBERG  
KATHY KAY SOLBERG

Bky Case No. 04-33591  
Chapter 7

Debtors.

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**UNSWORN CERTIFICATE OF SERVICE**

I, Jennifer M. Albright, declare under penalty of perjury that on September 3, 2004, I mailed copies of the following:

Notice of Hearing and Motion Objecting to Claimed Exemptions and Proposed Order

by United States Mail, postage pre-paid, to each entity named below at the address stated below:

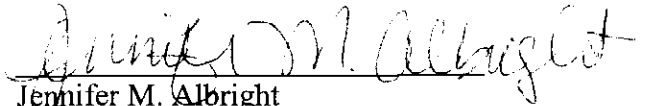
Mark C. Halverson  
Halverson & Associates  
P.O. Box 3544  
Mankato, MN 56002-3544

Alan J. and Kathy K. Solberg  
711 2<sup>nd</sup> St N  
New Ulm, MN 56073

Mark J. Schultz  
Gallas & Schultz  
9140 Ward Parkway, Ste 200  
Kansas City, MO 64114

UNITED STATES TRUSTEE  
1015 U S COURTHOUSE  
300 SOUTH 4<sup>TH</sup> STREET  
MINNEAPOLIS MN 55415

Executed on September 3, 2004.

Signed: 

Jennifer M. Albright  
DUNLAP & SEEGER, P.A.  
P O BOX 549  
ROCHESTER MN 55903-0549  
(507) 288-9111

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**ORDER DENYING CLAIMED EXEMPTIONS**

This matter came before the Court on the 7 day of October, 2004, on the Motion of the Trustee Objecting to Claimed Exemptions. Appearances, if any, were noted of record. Based on the file, proceedings and record in this matter:

IT IS HEREBY ORDERED that:

The Trustee's Motion Objecting to Claimed Exemptions is sustained, and accordingly:

1. The debtors' claimed exemption of accrued wages, Alliance Bank deposits, cash on hand, estimated 2004 tax refunds, estimated accrued profit sharing disbursement, golf clubs, and Orange Lake Resort Timeshare is denied.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Dennis D. O'Brien  
United States Bankruptcy Judge